

Appl. No. 09/721,728
Reply dated April 20, 2007

REMARKS

Applicant has amended the claims to overcome the rejection under 35 USC 112, second paragraph.

PRIOR ART REJECTION

In response to the Examiner's rejection of Claims 1-19, 21-39 and 41 under 35 USC 102(b) as being anticipated by U.S. Patent No. 5,496,991 to Delfer, III et al. ("Delfer"), Applicant traverses the rejection. In particular, the examiner has not shown that each element of each claim is disclosed in Delfer and therefore the anticipation rejection is improper and must be withdrawn.

Claims 1 and 3-19

Delfer does not disclose each element of claim 1 and therefore the anticipatory rejection based on Delfer is improper. In particular, Delfer does not disclose" 1) "communicating the payment instructions directly to the payee to initiate payment of the amount"; nor 2) "wherein the payment remittance information is arranged within a data structure, the data structure comprising one or more data fields to hold data that the payor can enter, and the payment remittance information further comprises a structured remittance data that is kept hidden from the payee" for the reasons set forth below and therefore cannot anticipate claim 1.

Delfer does not disclose "communicating the payment instructions directly to the payee to initiate payment of the amount" as set forth in claim 1. Delfer discloses an automated remittance system in which the consumers' pre-authorization are obtained by a billing system provider to initiate an electronic transfer of funds from the consumers' depository accounts to a vendor's depository account. *See Delfer Abstract*. Furthermore, "The billing service provider acts as a central processing facility for billing consumers of vendor clients." *See Delfer at Col. 3, lines 50-52*. In Delfer it is clear that the billing system provider (a third party) is involved in the automated remittance transaction between a consumer (the claimed payor) and a vendor (the claimed payee). In contrast, the claimed method permits the payment instructions to be directly communicated to the payee from the payor thereby eliminating any third party involvement such as the billing system provider in Delfer. Therefore, Delfer does not disclose and cannot disclose the direct communication between the vendor (the claimed payee) and the consumer (the claimed payor).

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Delfer does not disclose "wherein the payment remittance information is arranged within a data structure, the data structure comprising one or more data fields to hold data that the payor can enter, and the payment remittance information further comprises a structured remittance data that is kept hidden from the payee" as set forth in claim 1. Delfer discloses an automatic remittance system in which various pieces of payor information (identification data, account numbers, etc.) are stored in a database maintained by the billing service provider. *See Delfer at Col. 4, lines 15-29.* Delfer also discloses remittance documents 6 that are used in the automated remittance system. *See Delfer at Col. 5, lines 33-56.* However, nowhere does Delfer disclose or even suggest a payment remittance with a structured remittance data that is kept hidden from the payee (the vendor in Delfer). Therefore, Delfer does not disclose this element of claim 1.

In summary, Delfer does not disclose at least two elements of claim 1 and therefore the anticipatory rejection based on Delfer is improper and should be withdrawn.

Claims 3-19 (that depend directly or indirectly on claim 1) were also improperly rejected based on Delfer and the rejection of those claims must be withdrawn as well.

Claim 2

The anticipation rejection of claim 2 based on Delfer is also improper because claim 2 recites "the payment remittance information comprising a structured remittance data that is kept hidden from a payee" and "associating the payment instructions with the structured remittance data; communicating the payment instructions from the memory directly to the payor to initiate payment of the amount" which are not disclosed by Delfer for at least the same reasons set forth above for claim 1.

Claims 21, 23-39 and 41

Delfer does not disclose each element of claim 21 and therefore the anticipatory rejection based on Delfer is improper. In particular, Delfer does not disclose: 1) "means for communicating the payment instructions directly to the payor to initiate payment of the amount"; and 2) "wherein the payment remittance information is arranged within a data structure, the data structure comprising one or more open data fields to hold data that the payor can enter, and the payment remittance information further comprises a structured remittance data that is kept hidden from the payee" for the reasons set forth below and therefore cannot anticipate claim 21.

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Delfer does not disclose "means for communicating the payment instructions directly to the payor to initiate payment of the amount" as set forth in claim 21. As set forth above, Delfer discloses an automated remittance system where a billing system provider (a third party) is involved in the automated remittance transaction between a consumer (the claimed payor) and a vendor (the claimed payee). In contrast, the claimed device permits the payment instructions to be directly communicated to the payee from the payor thereby eliminating any third party involvement such as the billing system provider in Delfer. Therefore, Delfer does not disclose and cannot disclose the direct communication between the vendor (the claimed payee) and the consumer (the claimed payor).

Delfer does not disclose "wherein the payment remittance information is arranged within a data structure, the data structure comprising one or more open data fields to hold data that the payor can enter, and the payment remittance information further comprises a structured remittance data that is kept hidden from the payee" as set forth in claim 21. Delfer discloses an automatic remittance system in which various pieces of payor information (identification data, account numbers, etc.) are stored in a database maintained by the billing service provider. *See Delfer at Col. 4, lines 15-29.* Delfer also discloses remittance documents 6 that are used in the automated remittance system. *See Delfer at Col. 5, lines 33-56.* However, nowhere does Delfer disclose or even suggest a payment remittance with a structured remittance data that is kept hidden from the payee (the vendor in Delfer). Therefore, Delfer does not disclose this element of claim 21.

In summary, Delfer does not disclose at least two elements of claim 21 and therefore the anticipatory rejection based on Delfer is improper and should be withdrawn.

Claims 23-39 and 41 (that depend directly or indirectly on claim 21) were also improperly rejected based on Delfer and the rejection of those claims must be withdrawn as well.

Claim 22

The anticipation rejection of claim 22 based on Delfer is also improper because claim 22 recites "means for storing a receipt and a payment remittance information, the payment remittance information comprising a structured remittance data that is kept hidden from a payee" and "means for communicating the payment instructions directly to the payor to initiate payment

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of the amount" which are not disclosed by Delfer for at least the same reasons set forth above for claim 21.

CONCLUSION

In view of the above, it is respectfully submitted that Claims 1-19 and 21-39 and 41 are allowable over the prior art cited by the Examiner and early allowance of these claims and the application is respectfully requested.

The Examiner is invited to call Applicant's attorney at the number below in order to speed the prosecution of this application.


The Commissioner is authorized to charge any deficiencies in fees and credit any overpayment of fees to Deposit Account No. 07-1896.

Respectfully submitted,

DLA PIPER RUDNICK GRAY CARY US LLP

Dated: 4-20-07

By



Timothy W. Lohse
Reg. No. 35,255
Attorney for Applicant

DLA PIPER RUDNICK GRAY CARY US LLP
2000 University Avenue
East Palo Alto, CA 94303
Telephone: (650) 833-2055